BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

Appeal No. 739/2016

Date of Decision ... 16.04.2018

Zar Wali Shah Ex. SPST, GPS No.1, Shah Mansoor, Village Tano, Post Office Mankai, Tehsil Lahor, District Swabi.

(Appellant)

VERSUS

 Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education (E&SE), Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and 2 others.
 ... (Respondents)

Mr. SHAHZADA IRFAN ZIA, Advocate

MR. KABIRULLAH KHATTAK Additional Advocate General

For respondents

For appellant.

MR. AHMAD HASSAN, MR. MUHAMMAD AMIN KHAN KUNDI MEMBER(Executive) MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Senior Primary School Teacher. That on the allegations of absence from duty he was removed from service vide impugned order dated 01.02.2016. He filed departmental appeal on 04.05.2016 which was rejected on 16.05.2016, hence, the instant service appeal on 20.07:2016.

ARGUMENTS

3. Learned counsel for the appellant argued that he applied for two years extraordinary leaves, while the competent authority sanctioned leave from 01.04.2014 to

30.09.2015. After getting leave he proceeded to Hyderabad for construction of his house. There he got entangled in a property dispute and was unable to join duty after expiry of leave. In the meanwhile the respondent no.3 imposed major penalty of removal from service vide impugned order dated 01.02.2016. The impugned order was delivered at his official address but at that time he was in Hyderabad. He filed departmental appeal on 04.05.2016 which was rejected on 16.05.2016. However, copy of rejection order was communicated to him at his home address was delivered after considerable delay. Learned counsel for the appellant further argued that absence from duty was not deliberate and intentional. In case major penalty is to be imposed regular enquiry should be conducted strictly in accordance with in vogue rules which were not done in this case.

4. On the other hand Learned Additional Advocate General argued that he was unauthorizedly absent from duty w.e.f 01.10.2015. All codal formalities were observed before imposition of major penalty of removal from service. During the course of arguments he presented letter dated 02.03.2018 which showed unauthorized travel history/visits abroad of the appellant from 04.8.2013 to 28.02.2018.

CONCLUSION

5. Before proceeding further this Tribunal would first like to deal with the issue of limitation. Impugned order was passed on 01.02.2016, while departmental appeal was filed on 04.05.2016, which was rejected on 16.05.2016 and the instant service appeal was filed on 20.07.2016. The above facts reveal that both the departmental and service appeals are time barred. Learned counsel for the appellant when confronted on this point informed that copy of impugned order was dispatched at his school address, but he was in Hyderabad during those days. So far as rejection of departmental appeal is concerned

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rejection order was sent at his home address which was delivered by the postman to a covillager of the appellant and the same was delivered to him after considerable delay. He was further confronted on the point of frequent visits abroad by the appellant without permission of the competent authority but was unable to come up with any justification. As the case is time barred and learned counsel for the appellant was unable to justify the delay so there is no need to touch the merits of the case. Moreover, the issue of visits abroad by the appellant without leave and permission of the competent authority is a serious breach of discipline and amounts to misconduct.

6. As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

AHMAD HASSAN) MEMBER

(MUHÁMMAD A KHAN KUNDI)

MEMBER

<u>ANNOUNCED</u> 16.04.2018 16.04.2018

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<u>Order</u>

Counsel for the appellant and Addl: AG alongwith Mr. Fazal Khaliq, ADO for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced: 16.04.2018

ÁHMAD HASSAN) Member

(MUHAMAMD AMIN KHAN KUNDI)

Member

11.08.2017

Counsel for the appellant present. Mr. Shahi Mulk, Deputy DEO alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.12.2017 before D.B.

(Muhammad Amin Khan Kundi) Member (J)

(Muhammad Hamid Mughal) Member (J)

06.12.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for respondent also present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 09.02.2018 before the D.B.

MH

ad Hassan) Member $(E)^{\prime}$

 (Muhammad Amin Khan Kundi) Member (J)

.09.0**1**.2018

Learned counsel for the appellant and Mr. Usman Ghani, Learned District Attorney alongwith Fazal Khaliq ADO for the respondents present. Learned counsel for the appellant seeks adjournment. Learned District Attorney stated that the appellant was removed rom service on the ground of absence and that the appellant is abroad. Representative of the respondent department also submitted copy of Flight Schedule in respect of the appellant. Adjournment requested. Adjourn. To come up for arguments on 16.04.2018 Before D.B

(Gul Zeb Khan) MEMBER

(Muhammad Hamid Mughal) MEMBER 28.09.2016

Counsel for the appellant and Mr. Hameed Ur Rehman, AD(Lit) alongwith Addl: AG for respondents present. Written reply submitted. To come up for rejoinder and final hearing on 23.12.2016.

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Member

23.12.2016

Counsel for the appellant and Assistant AG for respondents present. Counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on $10 \cdot 5 \cdot 12$.

(Muhammad Aamir Nazir) Member

(Ashfaque Taj) Member

as.2017

Clerk to counsel for the appellant and Mr. Fatal Khaliq, ADO alongwith Mr. Muhammad Jan, GP respondents present. Rejoinder submitted. Due to transfer of one of the undersigned as reported in daily "Aaj" dated 10.05.2017, arguments could not be heard. To come up for final hearing on 11.08.2017 before D.B.

25.07.2016

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving as Senior Primary School Teacher when removed from service vide impugned order dated 01.02.2016 on the allegations of willful absence where-against he preferred departmental appeal which was also rejected on 16.5.2016 and hence the instant service appeal on 20.07.2016.

That the enquiry was not conducted in the prescribed manners. That the appellant was provided no opportunity of defence. That the penalty is harsh as the appellant has put in more than 16 years service and that on the strength of the said penalty appellant deprived of service benefits already rendered by him.



Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 28.09.2016 before S.B. Notice of application for condonation of delay shall also be issued to the respondents for the date fixed.



Form-A.

FORM OF ORDER SHEET

Court of_____

Case No. 739/2016

Order or other proceedings with signature of judge or Magistrate S.No. Date of order proceedings 3 2 1 20/07/2016 The appeal of Mr. Zar Wali Shah presented today by 1 Shahzada Irfan Zia Advocate may be entered in the Institution Register and put up to Learned Member for proper order please. TRAR 21-7-16 2-This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>25-7-16</u> **MEMBER**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL. <u>PESHAWAR</u>

IN RE: Service Appeal No. <u>739</u> / of 2016

Zar Wali Shah Ex. SPST, GPS No.1, Shah Mansoor

Appellant

VERSUS

Province of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education (E&S) and others...

Respondents

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Through:

Dated: 20.07.2016

لرومى شاہ Appellant

(Shahzada Irfan Zia) Advocate High Court 13-C Haroon Mansion, Khyber Bazar, Peshawar. Cell # 0300-9345297

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7 3 4 / of 2016

Zar Wali Shah Ex. SPST, GPS No.1, Shah Mansoor, Village Tano, Post Office Mankai Tehsil Lahor, District Swabi...

VERSUS

Province of Khyber Pakhtunkhwa 1: through Secretary Elementary & Secondary Education (E&S) Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

Director Elementary & Secondary 2. Education (E&S), Khyber Pakhtunkhwa, G.T. Road, Peshawar.

Respondents District Education Officer (Male) Swabi... SECTION OF KHYBER UNDER APPEAL PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 01.02.2016 PASSED BY RESPONDENT NO.3 WHEREBY THE **IMPOSED** MAJOR COMPETENT AUTHORITY PENALTY OF REMOVAL FROM SERVICE UPON THE APPELLANT AND HIS DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER WAS REJECTED Filedto-day ON 16.05.2016.

Respectfully Sheweth:

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<u>r af</u>r

FACTS OF THE CASE

That the appellant is Ex. Senior Primary School Teacher (SPST) 1. Government Primary School No.1 Shah Mansoor, Swabi and about 16

Khyper Bakhtukhwa Biary No. 72 Dated-

Appellant

years meritorious service is at his credit. His entire service career is spotless and no cause of complaint was ever reported against him.

2. That the appellant applied for Extra Ordinary Leave for 2 years with effect from 01.04.2014 to 31.03.2016, which was sanctioned by the competent authority with effect from 01.04.2014 to 30.09.2015. (Annex: A&B).

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- That the appellant after obtaining the sanction of Extra Ordinary Leave proceeded to Hyder Abad (Sindh) in connection with construction of his house and shops on the plot purchased by him few years back at the said place.
- That the appellant faced different property disputes with an other party in the Province of Sindh, of which took much time and due to non-settlement of disputes the appellant failed to resume duty after expiry of the period of sanctioned leave. The opponents of the appellant were high influential, having close relations with one political figure in Swabi, who threatened the appellant and his family members and there was security risk to the appellant.
- That on 01.02.2016 the respondent No.3 passed the impugned order whereby he imposed the major penalty of removal from service upon the appellant, on the charges of willful and unauthorized absence from duty. (Annex: C).
- That the impugned order dated 01.02.2016 was delivered at the official address (GPS No.1, Shah Mansoor), therefore, the appellant was unaware about the same as he was in the Province of Sindh during the said period, however, on his return after settlement of property dispute he obtained the copy of the order from the office of the respondents.

That feeling aggrieved the appellant filed his Departmental Appeal, (Annex: D) which was rejected by the authority vide order dated 16.05.2016, but the copy of the final rejection order was not communicated to the appellant at the address of his residence and sent by Registered Post by the Department. The Postman delivered the said letter/order at the Shop of one Mukhtiar Ali, Village Tano, who handed over the said letter to the appellant after sufficient delay, therefore, the appellant failed to file the instant appeal before this honourable Tribunal within the statutory period fixed under the law (Annex: E&F), hence the instant appeal is being filed on the following grounds:-

GROUNDS:

a.

d.

That the absence from duty of the appellant was not intentional or deliberate, but due to security risks to him and to his family. The circumstances were beyond control of the appellant, therefore, he is entitled for a lenient view and the impugned orders are harsh and not proportionate to the guilt.

- b. That ex-parte proceedings were initiated against the appellant and no opportunity of defense was afforded to him at any stage. The departmental appeal of the appellant was also rejected without giving him an opportunity of hearing, thus he was condemned unheard.
- c. That it is cardinal principle of law that "No one can sit as a Judge in his own cause". The respondent No.3 passed the impugned order dated 01.02.2016 and imposed the major penalty of removal from service upon the appellant and the same authority rejected the departmental appeal of the appellant against his own impugned order dated 01.02.2016. Thus the action of respondent No.3 is unwarranted by law and his orders are unsustainable under the law.

That it is well settled principle of law that in case of major penalty the department is under legal obligation to conduct regular inquiry, but in the instant case no regular inquiry was conducted by the respondents, therefore, the appellant was unable to defend his case and no opportunity was given to him to vindicate his plea and position.

That about 16 years meritorious service is at the credit of the appellant, and he always performed his statutory duties with zest and zeal. The entire service career of the appellant is unblemished and no cause of complaint was ever reported against him, therefore, being first fault on the part of the appellant the matter needs to be considered sympathetically.

That it was in the knowledge of the respondents that the appellant is in the Province findh, but the impugned orders were sent at the official address of the appellant (GPS No.1, Shah Mansoor) which clearly indicates the malafide of the respondents.

In view of the aforesaid facts and circumstances of the case it is humbly prayed that the impugned order dated 01.02.2016 and impugned final order dated 16.05.2016 may kindly be set aside being illegal, harsh and void, directing the respondents to reinstate the appellant into service with all back benefits.

Any other relief though not specifically asked for to which the appellant is found entitled in the circumstances of the case may also be granted to the appellant. مرومى شاہ

Through:

Dated:20.07.2016

f.

(Shahzada Irfan Zia) Advocate High Court 13-C Haroon Mansion, Khyber Bazar, Peshawar. Cell # 0300-9345297

Appellant

CERTIFICATE:

Certified that as per instruction of my client, no such Service Appeal on behalf of the appellant has earlier been filed in this Honourable Tribunal on the subject matter.

Advocate 🔪

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M. No.

/ of 2016 IN RE:

Service Appeal No.____/ of 2016

Zar Wali Shah ex. SPST, GPS No.1, Shah Mansoor

VERSUS

Province of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education (E&S) and others...

> APPLICATION FOR CONDONATION OF DELAY, IF ANY.

Respectfully Sheweth:

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3.

That the instant appeal has been filed before this Honourable Tribunal in which no date has yet been fixed.

That the departmental appeal of the appellant/Applicant was rejected by respondent No.3 vide order dated 16.05.2016, but copy of the same was not delivered to the applicant at the address of his residence and sent by Registered Post by the respondents. The Postman delivered the said order at the shop of one Mukhtiar Ali who handed over the said order to the applicant after Eid vacations, therefore, delay occurred in filing of appeal before the Honourable Tribunal.

That the delay in filing the appeal before the august Tribunal is not intentional but due to circumstances beyond control.

It is, therefore, humbly prayed that the delay in filing the appeal may kindly be condoned in the interest of justice.

Through:

Dated: 20.07.2016

Respondents

Applicant

(Shahzada Irfan ZIa) Advocate High Court 13-C Haroon Mansion, Khyber Bazar, Peshawar. Cell # 0300-9345297

Applicant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

/ of 2016

IN RE:

7 of 2016 Service Appeal No.

Zar Wali Shah Ex. SPST, GPS No.1, Shah Mansoor

VERSUS

Province of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education (E&S) and others...

C.M. No.

Respondents

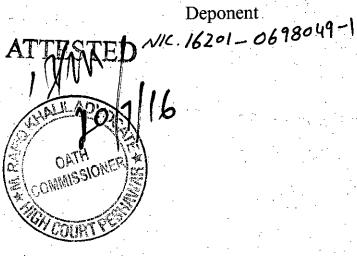
Deponent.

Applicant

AFFIDAVIT

I, Zar Wali Shah, Ex. SPST, GPS No.1 Shah Mansoor Village Tano, Post Office Mankai, Tehsil Lahor District Swabi, do hereby solemnly affirm and declare that the contents of this Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court. ر دومی شاہ

IDENTIFIED BY (Shahzada Irfan Za) Advocate, Peshawar.





OFFICE OF THE DEPUTY DIRECTOR FEDERAL INVESTIGATION AGENCY IMMIGRATION AIRPORT PESHAWAR <u>PH: 091-9213372</u>

No. FIA/Immigration/2018/96____

Dated: 02 - 03 /2018

То,

The District Education Officer (Male) Swabi.

Subject:

ect: <u>COMPLETE EMIGRATION RECORD OF GOVT: SERVANTS.</u>

Please refer to your office letter No. 2062 dated 28-02-2018 on the subject noted above.

Enclosed please find herewith Travel Histories of the following persons provided by Assistant Director IBMS Peshawar Airport for kind perusal and further necessary action.

1. Zarwali Shah s/o Aminul Haq CNIC No. 16201-698049-1

2. Shakir Ullah s/o Farid Ullah CNIC No. 16202-8429307-1

Furthermore, the CNIC No.16202-0885072-5 in the name of Ghani-ur-Rehman s/o Umar Gul holds no travel record in IBMS System.

OR / FIA **IMMIGRATION BKIA PESHAWAR**

IBMS TRAVEL HISTORY REPORT



| Name | Z |
|---------------------|----|
| Father/Husband Name | A |
| Personal Number | 16 |
| Birth Date | 18 |
| Nationality | |
| | |

ARWALI SHAH MINUL HAQ 620106980491 8-MAY-69 'К

| Document Num | ber, Event Date | Flight No | Entry Status I | lame |
|--------------|-----------------|-----------|----------------|--|
| NC5140492 | 04-AUG-13 | PK772 | arriving. | Benazir Bhutto International Airport Islamabad |
| NC5140492 | 03-MAY-14 | QR609 | . departing. | Peshawar International Airport |
| NC5140492 | -11-MAY-14 | PK769 | departing | Benazir Bhutto International Airport Islamabad |
| NC5140492 | 02-MAY-16 | QR614 | arriving | Benazir Bhutto International Airport Islamabad |
| NC5140493 | 10-OCT-16 | EY232 | departing | Benazir Bhutto International Airport Islamabad |
| NC5140493 | 28-FEB-18 | PK734 | arriving | Allama lobal International Airport, Lahore |
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thun with -Dist: Education Officer (Mule) Swabi

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OFFICE OF THE DISTRICT EDUCATION ODDICER (MALE) SWABI

LEAVE SANCTION: -

Under the provision of Khyber Pakhtunkhwa civil servant revised leave rules 1981, sanction is hereby accorded to the grant of Extra Ordinary Leave without pay w.e.f. <u>01-04-2014 to 30-09-2015 (548 days)</u> in respect of Mr. Zar Wali Shah PST GPS No.1 Shah Mansoor District Swabi in the best interest of public services.

Note: -

Entry to this effect should be made in his Service Book and Leave Account.

(ABDUS SALAM) DISTRICT EDUCATION OFFICER, (MALE) SWABI

(Annesc: B) 🛸 (3)

/ 2014. / Dated: 71 Endst: No.

Copy of the above is forwarded to the: -

1. Sub-Divisional Education Officer (Male) Swabi.

2. District Accounts Officer Swabi.

DISTRICT EDUCATION OFFICER,

(MALE) SWABI 2 OFFICE OF THE SHO DIVISIONAL EDUCATION OFFICER (M) Suble Endt. Nor 492 1 Deted 23/9 1 2014. Founded for Information to the -1- ASDED (M) SWASE 2- Head Tractin Eips No-1 Stah Momsoor. 3. Trachin Correct Local Office. 4. Account Brouch Local Office.

(Annex:c)

Office of the District Education Officer (Male) Swabi Notification: -

WHEREAS Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 on account of his willful and un-authorized absence from duty w.e.f. 01-10-2015 and was directed to resume his duty by the ASDEO (M) Circle Thand Koi vide his office No. 297, dated: 17-10-2015, No. 300, dated: 02-11-2015 and No. 307, dated: 18-11-2015, but he failed to resume his duty.

AND WHEREAS absentee notice was served upon the accused official Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi "Daily News Papers" "Express Peshawar" dated: 09-01-2016 and "Daily Mashrig" dated: 12-01-2016 to resume his duty within 15 days, but he remained absent and did not report for duty in response of the above absence notice.

AND WHEREAS the competent authority i.e. the DEO (Male) Swabi after having considered the charges and evidence on record is of the view that the charges willful and un-authorized absence from duty against the accused have been proved.

NOW, THEREFORE, in exercise if the powers conferred under Section 3 b (iii) if the Khyber Pakhtunkhwa Removal from service under (Efficiency & Discipline) Rules 2011, the competent authority is pleased to impose the major penalty of u noval from service upon Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi with immediate effect. The period of his absence from duty w.e.f. 01-10-2015 till the issuance of this order be treated as un-authorized ab ence from duty without bay.

(JEHAN MUAHMMAD) DISTRICT EDUCATION OFFICER (MALE) SWABI

Hui <u>Endst No. 42-48</u>/F.No.2-DA-13/Absent PST (M) Dated Swabi the <u>01</u> 102-12016

Copy of the above is forwarded for information and necessary action to the: -Director Elem: & Secy: Education Khyber Pakhtunkhwa Peshawar.

District Monitoring Officer Swabi.

District Accounts Officer Swabi.

Sub-Divisional Education Officer (M) Swabi w/r to his No. 3288, dated: 14-12-2015. Circle Officer Circle Thand Koi.

Head Teacher GPS No.1 Shah Mansoor Tehsil and District Swabi.

Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tanp Post office Manki Tehsil Lahor District Swabi (Under Register Cover).

DISTRICT EDUCATION OFFICER

(MALE) SWABI

Sndost NO

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Dated.

Copy of the above is forwarded for information &

Circle Thand Koi .

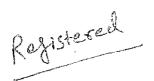
ASDEO (Male)

FDU: OFFI IMALE SWABI



D/action

فر المراب و مرد من آ در مرد انه (10) الم يوساكان مس قرويتر في آفسير مم . (مردونه) معل (رفورست تمراد حال ملوزمت منادعاك! مرد وما فتر ارمین سیسے کر نموی تی میں جن ترین معم الی قرمات در مرو ی - اسی دوران مروی فر خانی 0,123 (i) 2 (0,0 - 0,00-1) (i) (i) blue $\sum_{i=1}^{n} \frac{1}{2} \sum_{i=1}^{n} \frac{1}{2} \sum_{i$ در فررسی بخشری علی - سین ایس کا کری بستر کسی جار - ایس الله تحصر - در فکر فکر کر میں ایلی وعمال حق میں مے عار میں ج ور الزار in an in the show and in the show and the show The contract of the strate of the ر جنس میں الجار کی - تو معلوم مور کی تحصر المرک سے برمانس • فغير منتحود عناين فرا من م 04 05 (3) 106000 ورفودس ار ا_ Zons which the nahmansoor (s.



(Annoz: E)

Office of the District Education Officer (Male) Swabi

Mr. Zarwali Shah Ex-SPST GPS No.1 Shah Mansoor Village Tano Post office Manki, Tehsil Lahor District Swabi

Subject: -

То

<u>Appeal</u>

Memo: -

Reference your application No. NIL, Dated: 04-05-2016 on the subject cited above.

All codal formalities has been observed in your termination, your appeal is not addressed to the appellate authority, further.more your present appeal is also badly time bared.

<u>Hence your appeal is hereby rejected.</u>

DY: DISTRICT EDUCATION OFFICER MALE) SWABI

Endst: No.

Copy of the above is forwarded to the: -

1. Director Elem: & Secondary Education Khyber Pakhtunkhwa Peshawar.

- 2. Sub-Divisional Education Officer (Male) Swabi.
- 3. Deputy Commissioner Swabi.
- 4. ASDEO (Male) concerned circle.
- 5. Head Teacher GPS No.1 Shah Mansoor.

DY: DISTRICT EDUCATION OFFICER (MALE) SWABI

. . .

With Zarwali shah Ex- spst Cops 161 shah Manseds, Village 265 Tanc pist affice Manki Supply gla preserve ANT . Ś uterie ISP

Annex: (12) رفع عبرد راف بي تر تر تحمل من مر اول خاه و قر الموراخي 1 2 2 5 and read and mercis 2 and 5 6 4 6 6 merel merel دور مسى عصبا ومسل ولا عنو دم مان كا فرمي درم العدل 2557228 ind مراج يومد كالمهم ما رو-رباق ما جرى فان ما و 12 pm torothen (Sweats)

صى محسراً وسما على عرضة ومى ما من ما نو ميم درمير مع مرد الحدين منى زرول شا مردم ومرد الحق مع يومت مي فافر نددا جو م معدم على من عمر عرطا فاعس مرجود مق وجو قدر مندان كا معند وس ر من عما اور معر عد خط فامير من مي معمود معلق زال او معر ك تق مر حورتین عقر مروج مع دار مع دار مع ما مد ما و من مع من ار) حمل رور معرور معلف و مر من من الله عمل رور حم عول الله والمروط عام ما تعاده بر معدا هم مال كلي هم مرس فور زرول من مع معزرت مسا خور دن مقى عما يا تنبت كامام مع روش البير لين لين حترم ال الما مرحم معرفت كاميان دين وماريل. 3,1,3 Merte Muthin 16201-0704582-9

Before the KPK Service Aprilian Zar Wali Skah .: 2 20.7:2016 مورخه Province of KPK ete. مقدم Zar Wali Shah دعوكى Service Appeol. جرم باعث تحريراً نكبه مقدمه مندرجه عنوان بالاميں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام یا مرد مولوم کی کیلئے ہی مرح مدہ کی کاروائی کا کال اختیار ہوگا۔ نیز مقرر کر کا کال اختیار ہوگا۔ نیز وکیل صاحب کوراضی نامہ کرنے دتقرر ثالث وفیصلہ پر حلف دیتے جواب دہی اورا قبال دعویٰ اور بصوزت ذگری کرنے اجراء اور دصولی چیک درو پیدار عرضی دعویٰ اور درخواست ہر شم کی تصدیق زرایں پرد شخط کرانے کا اختیار ہوگا۔ نیز صورت عدم ہیروی یاڈ گری کیطرفہ یا پیل کی برامدگ اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا مختار ہوگا۔از بصورت ضرورت مقدمہ مذکور کے کل یاجز دی کاروائی کے داسطے اور دکیل یامختار قانونی کواپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔اورصاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے Hare اوراس کاساختہ پر داختہ منظور دقبول ہوگا دوران مقدمہ میں جوخر چہ ہرجانہ التوائے مقدمہ کے سب سے دہوگا۔ کوئی تاریخ بیشی مقام دورہ پر ہو یا حد سے باہر ہوتو دکیل صاحب پابند ہوں ے۔ کہ بیروی مذکور کریں۔لہذا وکالت نامہ کھندیا کہ سندر ہے۔ روى شا ، ,2016 July المرقوم 20 th.

عدنان سَتَيْشَنَرى مَارِتَ چ*ۇرىشىكرى*پتادرىخىنى:220193 Mob: 0345-9223239 یک لئے منظور ہے۔

Veshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u>

C.M.No.

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____/of 2016 IN RE:

Service Appeal No.739/2016

VERSUS

Secretary E&SE Khyber Pakhtunkhwa Peshawar Director, E&SE Khyber Pakhtunkhwa, Peshawar. District Education (E&SE) Male Swabi

.....Respondents

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DISTRICT POWCATION OFFICER (MALE) SWABI Dist: Education Officer (Male) Swabi

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u> Service Appeal No 720/2016

Service Appeal No.739/2016

Zarwali Shah Ex-SPST, GPS No.1 Shahmansoor Village Post Office Manki Tehsil Lahor District Swabi......Appellant

VERSUS

Secretary E&SE Khyber Pakhtunkhwa Peshawar Director, E&SE Khyber Pakhtunkhwa, Peshawar.

District Education (E&SE) Male Swabi

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03

Respectfully Sheweth,

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PRELIMINARY OBJECTIONS.

That the instant Appeal is badly time barred.

That the Appellant has no locus standi or cause of action to file the instant Appeal That the Appellant has not come to the Tribunal with clean hands.

That the Appellant concealed the material facts from the Honourable Tribunal.

That the Appellant has filed the instant Appeal just to pressurize the

respondents.

That the Appellant is estopped by his own conduct to file the instant appeal. That, the Appeal is not maintainable in the present form and also in the present circumstances of the issue.

That the instant Appeal is against the prevailing laws and rules.

ON FACTS.

1. That this para of the appeal relates to the Ex-service record of the appellant

Admitted the leave was sanctioned by the competent authority w.e.f. 01.04.2014 to 30.09.2015.

That this para relates to the personal engagement of the appellant.

That this para relates to his personal affairs and he did not inform the department/Law enforcement agencies about his involvement in property disputes and other issues/threats. However applicant admitted his unauthorized absence.

That after observing all the codal formalities as absence notices and publication in two leading News Papers the respondent No.3 passed the order dated 01.02.2016 and removed him from service due to willful and unauthorized absence from duty. (Annexure A,B&C attached).

Denied and incorrect, the appellant being an educated person and a civil servant may aware of his leave period and its date of expiry. He did not bother to know about his service and thus turned a deaf ears towards his professional obligations and remained out of reach intentionally. The order dated 01.02.2016 was sent on his home address which was returned to the office undelivered with the remarks that he was not at village.

Incorrect and denied, he has been removed from service on 01.02.2016 and every civil servant may file an appeal against any decision to next higher authority within 30 days after the issue of order. He has submitted his appeal on 04.05.2016, which is badly time barred and the same has been submitted to DEO(M) Swabi which is a wrong Forum for such an appeal. The appeal may be submitted to Director E&SE Khyber Pakhtunkhwa, Peshawar as per rules. The late delivery of the letter is not a fault of Education Department. The appellant personally responsible for late submission of the instant appeal. Hence the appellant has no cause of action to file the instant appeal and the appeal in hand is liable to be dismissed on the following grounds.

GROUNDS.

7.

Incorrect and denied, as per the para that he had threats to his and his family's lives/life, he may inform the department through letter/telephone/email etc; but he did not bother to inform the department. Moreover there is nothing on this office record that he has been charged in any case/cases due to which he was absconder and was not in the position to report for duty. All these are lame excuses for misguiding the Honourable Service Tribunal.

Absolutely Incorrect and denied, he has been given absence notices on his home address as well as his official address he did not report on the dates mentioned in those notices. It is pertinent to mention that he was not intended to join his duty, he did not report for duty even after the absence notice appeared in the two leading New Papers. A show cause notice has also been sent to him on home address. (Annexure-A,B&C attached).

Incorrect and denied, that the respondent No.3 has not performed like a judge in himself. He followed the laid down procedure and after completion of all codal formalities issued the order of removal from service in respect of the appellant. His appeal has been rejected on the basis, that it was badly time barred and was not to the right forum.

Incorrect and denied, there was no need of enquiry in the instant case, the appellant took leave and did not report for duty inspite of departmental notices and notices appeared in the print media. Enquiries are conducted whenever someone within or out side the department levels some allegations against a Government servant.

Incorrect and denied, it is obvious from the duties and obligations of a civil servant chapter, civil servant act ,1973 that each and every civil servant shall perform his duty up to the entire satisfaction of the public and no chance has been given to him to deviate from the track. Moreover there is no provision in the rules that after some years of service a civil servant is allowed to violate rules.

e.

d..

Incorrect and denied, the appellant has described in his leave application that he would construct some shops and home during the requested leave, which was granted but after the expiry of leave the appellant did not inform the department that he was still in Sindh and did not intimate his postal address to respondent No.3. The department was bound to contact him on his home/ official address and it was done.

In wake of the above submissions, it is requested that this Honourable Tribunal may graciously be pleased to dismiss the instant appeal with cost in favour of the respondents.

District Education Officer (Male) Swabi t: Education Officer (Male) Swabi

02/9/mb

Director E& SE, Khyber Pakhtunkhwa, Peshawar Director

Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

Secretary Elementary & Secondary Education Department Govt:of KPK

AFFIDAVIT

We do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of our knowledge and belief, nothing has been concealed from this Honourable Court.

DISTRICT EDUCATION OFFICER (MALE) SWABI Dist: Education Officer (Male) Swabl

f.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

C.M.No.

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/of 2016 IN RE:

Service Appeal No.739/2016

Zarwali Shah Ex-SPST, GPS No.1 Shahmansoor Village Post Office Manki Tehsil Lahor District Swabi......Appellant

VERSUS

- Secretary E&SE Khyber Pakhtunkhwa Peshawar
- Director, E&SE Khyber Pakhtunkhwa, Peshawar. 2. 3.
 - District Education (E&SE) Male Swabi

... Respondents

REPLY ON APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth;

That the title service appeal is pending before this Honourable Tribunal. next date of hearing is 28.09.2016.

Incorrect and denied, that the self explanatory rejected departmental 2.: appeal was delivered to the applicant at the address of his residence and sent by registered post by the respondent. The excuse of delay is required day to day justification. All these are lame excuses for misguiding the Honouralbe Service Tribunal.

That the grounds mentioned in the para wise comments may be read as an integral part of this reply.

In wake of the above submission, it is requested that this Honourable Tribunal may very graciously be pleased to dismiss the instant appeal.

DISTRICT EDUCATION OFFICER (MALE) SWABI Dist: Education Officer (Male) Swabi



OFFICE OF THE ASDEO (M) CIRCLE THAND KOI NO______ Dated 17/10/2015

"consists = D 09 pages.

То

Mr. Zar Wali Shah SPST Village Tano; PO:Mankai Tehsil Lahor

SUBJECT: Show Cause Notice NO.1

You Mr. Zar Wali Shah SPST GPS NO.1 Shah Mansoor were on EO leave wef 01/04/2014 to 30/09/2015 which expired on 30/09/2015, but you failed to resume your duties and has not provided your arrival report uptill now.

You are willfully absent from duty wef 01/10/2015 up to date. Therefore you are directed to resume your duty and show the actual cause of your willful absence with in 15 days of the issuance of this show cause notice.

> _____ASDEO (M) Circle Thand koi

Copy Forwarded to: // SDEO (M) Swabi CIIB DIVISIONAL EDU: OFFICE CIIB DIVISIONAL EDU: OFFICE

ASDEO (M) Circle Thand koi

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wali Shah SPST : Tano,PO Manki Lahor(Swabi).

t: Show Cause Notice No.02

You Mr, Zarwali Shah SPST GPS No.1 Shahmansoor are willfully absent from ty w.e.f 01/10/2015 upto date. You were directed to attend your duty at school vide show use notice No.01 Endstt No.297 dated 17/10/2015 by ASEDO Circle Thandkoi via registered ist on your home address ,but no response has been received from your end yet and You are still illfully absent from your duty.

So you are once again directed toResume your duty with in 15 days after the issuance of this otice, Otherwise Disciplinary action will be taken against you.

OFFICE OF THE ASDEO(M) CIRCLE THAND KOI(SWABI)

No. 100

Dates 2 11/15

ASDEO(M) Circle Thandkoi (swabi)

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- 36,06,19,19 Zarwali Shah Village :- Tano - Post office Manki 3. _{br} نابن بسانلی (المدیند) Tehail z. Lahor يراي الأموري

Chele Thand Kei No. 307 di 18/11/2015 Zarwali Shah spsi village . Tano, pui Manki Mr. Tahisil Laher (Sundi directed by Shew Course: NO. 03 As you have been already. the undersigned vide show Cause No 1, better no Suffect. 7.97 of 13/10/2015 and Shew Course Nr. C2, Pallar no 300 dated 102/11/2013 Juis henre address, buil na vegaarse had been received from flue and aptill man, Thei-fore grace are once officin directerici to resume your duty will in 15 days after The usuance of this metice, allernise discipling disciplinny action will be taken grinst yet. Copy for worder 1 to. CHER SUNCE HOUSE 1) SOED (M) Sweets ASDED CHERRING HOY Civele MT MORELY KO FDU: OFFICER SUB DIVISIONALE SWA t: Education Officer (Male) Swabl

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Office of the ASDEO Circle Thandkoi (Swabi) No.__<u>3//</u>Date._ot/is/ian

То

The SDEO (M) Swabi

Subject: Absent from Duty/long leave regarding Mr.Zar wali shah SPST GPS No.1 Shah Mansoor

Memo:-

Reference to DEO No.15088 at 16/10/2015 on the subject cited above, it is stated that the teacher has not resumed his dury yet.

The undersigned issued 1st Notice No.297 at 17/10/2015 on his home address, but no response was received from his end, 2nd Notice No. 300 Date 02/11/2015 was issued on his home address via registered post.

It is stated for your information that both the letters were received back as undelivered on 09/11/2015 with the remarks of the post office officials that the teacher is not present in his village.

A 3rd Absent Notice No.307 date 18/11/2015 was issued on his home address via registered post but no response has received yet.

So it is concluded that Mr. Zar wali Shah SPST GPS No.1 Shah Mansoor is absent from his duty since 01/10/2015.

Moreover as per statement of the post office the teacher is not present in his home town.

Hence the report along with photo copies of the notices and envelops is hereby submitted for your kind information and necessary action please.

MA SUB DIVISI (MALE) SWABI

ASDEO(M) Circle Thand Koi

Distanciation Officer (Male) Swabi



ہ OFFICE OF THE SUB DIVISIONAL EDU OFFICER, (MALE) SWABI

/Dated: 14

/2015

The District Education Officer, (Male) Swabi

Subject:

Memo:

То

ABSENT FROM DUTY/LONG LEAVE REGARDING MR. ZAR WALI SHAH, SPST GPS NO.1.SHAH MANSOOR

32-88

Reference your memo No.15088, dated: 16/10/2015, an original report of concerned ASDEO along with relevant documents on the subject cited above is hereby submitted for information and necessary action please.

2/15

Sition Officer Dist. Ed. (Male) Swabi

DIVISIONAL EDU OFFICER, OIJ SUB DIVISH

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Hare Education Officer (Male) Swabi



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le accordingly. Inount in the blank columns against each item of BOQ. In case no rate is will have to be executed by the contractor at his own cost as per

red mail/courter should reach on 22/01/2016 upto 12:00 Noon, and the Frender Documents will be the responsibility of blidders. In Frender Documents will be the responsibility of blidders. a rate System", in case of intational & non workable / un-acceptable roper rate analysis, justifying the offered rates for such item(s), & e accordingly.

L who quote rate upto 10% below on the B.O.Q cost shall be e Bond" of the equivalent amount from the company of AA Rating filted exceeds from 10% below limit, the bidder shall submit Bank filted exceeds from 10% below limit, the bidder shall submit bank filted exceeds from 10% below limit, the bidder shall submit filted exceeds from 10% below limit, the bidder shall submit fight the tender / bid cost, within 07 working days of evaluation of the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast of the contrast to the contrast of the the expiry of Defect Libbility Period of the contrast concerned, as the expiry of Defect Libbility Period of the contrast to the expiration the expiration of t

10 Form "H" / Purtnership Deed will only be entitled to sign the tender Cornnearts. No proxy will be allowed to participate in the bidding. cb of, The Bank of Khyber, Khyber Pakhrunkhwa DiKhan in favour of 0, Tatel Division DiKhan payable in shape of call deposit shall i.

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40 در المر المراجل المراجل کال کور کے لئے کمال مغیر WORN خوشخري 30483783-----فرى يوم وليرى قرت 1270 رو برايل 6771244 0304 ااز ب جبکہ میٹرک کے تعلیمی استاد 20459235---ضرورت رشته جسم میں زبر دست **توت پید**ا کا ای جائيداد برائح فروخت خ خبری7 دنوں میں رنگ گورا کریں ز خان لکھا ہے در بھی کی جائے ،شاہ ان سے استعال سے ممكر، معدو، مناند ادرجم كى تما كم كھول بول يوہ ممر36 سال مانظ قرآن دیرں میں اپنا بزنس کیلیے رہے گی چرے کے دائی دیم دانے سانولی دمکت مرف 7 دنوں می فتم DHA كى فائلز بى فائلز المنعيم آباد كاوك ووالخنانه تحيير آباد طاقت چندرن میں فوری برمال ہو جاتی ہے۔ قوت لگ زبردسہ خرورت جوساتمه جاكر بولس كوسنجال تتحد يناتز فقضر بريسمن DHA بيادليور مان موجرانوال بيتادركو CVT تو اصام ويوفي او سراد موں کے لئے مکس مفید فری موم دلیوری قیت 670 ب میرے سرکار ڈاکا غذات میں ر ب رابل 03015174040/03315202323 امَاذِكر بِي مِنْكُوا نِ كَيْلِيَ فِيسَتِ 800 رَابِطُ 139069 (2003 مَارْجُ 2006) ر المفريس +6500 علاده بمباد لوررقيه بما ي فرد ات رابط تراكي كوتر نيخ دى جالمكى ميرنى تدرومعذرت 0333-8796037 ین لکھا کیا ہے لہٰدا در تکل کی جائے 20459239-----20458617-----لون المريطي 0333-2493136,0322-3880532 30483788 سدمحود شاوكرمان كرم أنجنى 30483618-بحواله شائع شده اشتهار بعنوان " دوباره نینڈرنونس" بابت خریداری یلان بیکیشن زیپار نومند (مرداندادیانه) حلی قویتر که این کر این زیستر و ساز زیبر کنیلونکس ادراکم کلس دیند، دویذ رمید میشود (اک سر نهر نیند ر این ار بیکی بر از مرد می مرد می مرد می مرد می مرد می ال بات شید را مردن ۱ به بعداد در بی می می از مرد با می می مردک ش شد در اسکان سكول فرنيچر زير انفار ميشن ژ . بپارشمنث نمبر INF (P) 5818 (INF روز نامدا ج پشاورمورخه 31.12.2015 اور روز نامدا يک پريس ے۔ و بدونتر ابنی کمشر (وفرجہ یا وہم کھولے جا سم ک 300,000/. اشياء يثاورمور فد 12.2015 شرط نمبر 1 كو" مندرجه بالا دين برائي ياتمرى كولو λ, 100,000/ براغ ساتن ليب إلى سكواد شمیح فنڈ زمیں کمی دمیشی ہو کتی ہے جو کہ KPPRA رولز 2014 فرغير 3,868,800/ برائي السكولز ے مطابق 15% فیصد بے زائد نہ ہو" پڑھاجا کے۔ (INF(P 69,000/-فرنتي JFULL Le فرنجه يوني كل سر يوسلود ونيذ رقار بدفتر (DEO(E&SE) من المريس مون 1000 مديد في تطح على ما يحل بعد با تحته اي ضلع تعليمي افسر (زناندومردانه) نوشهره من منا ملك من المدر الله على على المدر الله على على المدر الله المعلمي د المراد المراد والمنات والحل الحل بالداري ومن 24 مل باليت كالمترك (E& SE) قرفر المك كرمان المح المر لې د باي د ال که دا مح به ال 13- 14 20 د که مدونول شد ما د م مح سام و له ک رالاد ک سر نے پردائش کی جاتے گ المار في ما مجم مديدة ول مسالة وم مر ال فرادا ك جال اظهاروجوه ارور مارور ماری ک المار وقريم المسينة فرى متناعه كى مقروم الماد تحالي على الما الحكام المحك ل مدام فك مرا وخدا فى بالم المسلك في الم ۲ ب می زندنی شا، ایس لی ایس فی موضعت پرامری محول نیموا شاه معود (موالی) سردند 01.10.2015 س وم بذاكر وور معالم المحالية عد المراحد مالون عراض مع الف ما وون عرمها في كذك المناية وقارم سر ماعر و عل محال م ۴ مل سلس فی او یک سے فیر ماخر ہے، معدان فیر ماخرک بار دیو منطقہ استین سب او چک بایج کیش آفیر (مردانہ) سرک المرعنان ويتح تلوكون مدل ب ومكن أيدون من المدار ورج بات ك ما ويرمنو في مستقد ب - جمل كاجر والمحدور فرا من محك محكر كم فرا الم الم الم الم عدم وكاذال مد الم 287 مدور 17.10.2015 فرو 300 مدد 301.2015 ال فبر 307 مدد. 18.11.2018 بدك ك مح جس عرباً بركواني باخرد فركوان - كالكوس - باديد كوان ر وی مال معکن ارم جد والی مال دوران کولی مر بی کرانند برا بی اول در ماله احما مالی و حذک و بعد اور خین راس سے لیج استوال سے جائے۔ وروشکن کر بیکن مال معکن اگرم جد والی مال دوران کولی مر بی کرانند برا بی اول در ماله احما مالی کی و حذک و بالیک -A-448CLy 11 INF(P) 112 كاسابة بكوليا ل تدويد المرافة و معال جارى كما جارة 8-ليداة فول إرفد ويدلش بزدة بهكونند بكاجاتا بركدان أراعي بعده (15) دن كماعدا عدا بريط كمعد بد وَجِلْ بِمَامَرُكْنَ الالحَمَ چيتر مين دستر كب پرچيز مينې او بې مشنرتور فر م پر چیز میش و ستر کب بیج بیشن افیسر (FM) لا بود الجار وجوار المراح الم SAV NO TO CURREPTION فالد محمت على مدير الماد كلي 101 كرماني يكونكار والحال مل عدال با يرك جركما ب ك الامت - 20 مالك ى ايند سيكندرى أيجويش اورغر - Hechy -Request For Proposal (REP) ج سک The Elementary Education Foundation Khyber Pakhtunkhwa is expand 84) 50 10 · : جبان محمد، ذستر کٹ ایجو its Igra Farogh-e-Taleem Education Voucher Scheme. As part of t work, EEF is looking to recruit a firm to conduct a survey for vouch beneficiary identification and distribution, in selected districts of Khyb reducation would be programme in these programs INF(P)125 an education voucher programme in these areas. interested firms needs to submit a proposal, kindly request the undersigned for detailed ToRs for the assignment by info@eef.org.p Final proposal must be supported with the following documents: برگارک به حصالی المصحاصی بیکار بیک سیک کم عملی الی ای کم سالم سیک معالی الی ما تر جد معان المرحان بیکار یک میتی للمار باللاعد مار معرف والموالية المواد المراس والمراح و Technical proposal consisting of your approach, methodolog ۲. با الم عد با بالم معاد كمان مد الم عد من كمان الداديد على المراحد ومن المراج والمراح الم والمرا الم الم Financial proposal presenting expenses and consultancy ter 2. اليردة والأقر فير مامرى برقام اخرى شل په 3. CVs of core team members. فبرهم ام مدعمل ور الم 11-2015 6.4 503-1 - Je = 29-10-2015 كالالانعى الماريقيل يملع Relevant experience describing projects carried out of a simili 4. دش تبر 2 505 قارق 18-11-2015 (تهداء فاكراب nature. Company profile. Company registration certificate and NTN number. وش بر3 508 22-12-2015 6.2 io Gus 6. 18-10-2015 6.4 3281 1. 6. Jut 13-10-2015 كؤرد فبالالفاكات Interested firms shall respond to this advertisement at the earliest b ن^{ور} نبر2. 3690 ÷11-2015 (0.4 ليامجيدنا كردب لعل يتفحر ومتركت علم يحش الجر collecting detailed ToRs and submit your complete proposal in seale envelopes should reach to this office within 15 (Fifteen) days c محه شوكت، ڈسٹر كن ايجوكيشن آفيسرمردانہ منگ DIRECTOR PROGRAM Allementary Education Foundation F House No. 40, as Street No. 2010 Shamil Road Peshawar Cantre Khyber Pakhonkhwa Phone P1 2242395 9212396 INF(P) 105 INF(P) 129 A sicht and popven M H 11/16 "SAY NO TO CURREPTION 09-01-2016 tion Officer Diat: Fre (Mate) Swabi

Office of the District Education Officer (Male) Swabi Notification: -

Annexure "c' contritto of oy pages

WHEREAS Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsit Lahor District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 20[°]It on account of his willful and un-authorized absence from duty w.e.f. 01-10-2015 and was directed to resume his duty by the ASDEO (M) Circle Thand Koi vide his office No. 297, dated: 17-10-2015, No. 300, dated: 02-11-2015 and No. 307, dated: 18-11-2015, but he failed to resume his duty.

AND WHEREAS absentee notice was served upon the accused official Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi "Daily News Papers" "Express Peshawar" dated: 09-01-2016 and "Daily Mashriq" dated: 12-01-2016 to resume his duty within 15 days, but he remained absent and did not report for duty in response of the above absence notice.

AND WHEREAS the competent authority i.e. the DEO (Male) Swabi after having considered the charges and evidence on record is of the view that the charges willful and un-authorized absence from duty against the accused have been proved.

NOW, THEREFORE, in exercise if the powers conferred under Section 3 b (iii) if the Khyber Pakhtunkhwa Removal from service under (Efficiency & Discipline) Rules 2011, the competent authority is pleased to impose the major penalty of removal from service upon Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi with immediate effect. The period of his absence from duty w.e.f. 01-10-2015 till the issuance of this order be treated as un-authorized absence from duty without pay.

(JEHAN MUAHMMAD) DISTRICT EDUCATION OFFICER (MALE) SWABI

 $\frac{1042-48}{\text{Endst No.}}$ (MALE) SWAB1
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Copy of the above is forwarded for information and necessary action to the: -Director Elem: & Secy: Education Khyber Pakhtunkhwa Peshawar.

2. District Monitoring Officer Swabi,

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- 3. District Accounts Officer Swabi.
- 4. Sub-Divisional Education Officer (M) Swabi w/r to his No. 3288, dated: 14-12-2015.
- 5. Circle Officer Circle Thand Koi.

Diat: Enddation Officer (Male) Swabi

6. Head Teacher GPS No.1 Shah Mansoor Tehsil and District Swabi.

OL

7. Mr. Zarwali Shah SPSŤ GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi (Under Register Cover).

DISTRICT EDUCATION OFFICER (MALE) SWABI

Office of the District Education Officer (Male) Swabi Notification: -

WHEREAS Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 on account of his willful and un-authorized absence from duty w.e.f. 01-10-2015 and was directed to resume his duty by the ASDEO (M) Circle Thand Koi vide his office No. 297, dated: 17-10-2015, No. 300, dated: 02-11-2015 and No. 307, dated: 18-11-2015, but he failed to resume his duty.

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AND WHEREAS the competent authority i.e. the DEO (Male) Swabi after having considered the charges and evidence on record is of the view that the charges willful and un-authorized absence from duty against the accused have been proved.

NOW, THEREFORE, in exercise if the powers conferred under Section 3 b (iii) if the Khyber Pakhtunkhwa Removal from service under (Efficiency & Discipline) Rules 2011, the competent authority is pleased to impose the major penalty of removal from service upon Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi with immediate effect. The period of his absence from duty w.e.f. 01-10-2015 till the issuance of this order be treated as un-authorized absence from duty without pay.

> (JEHAN MUAHMMAD) DISTRICT EDUCATION OFFICER (MALE) SWABI

48_/F.No.2-DA-13/Absent PST (M) Dated Swabi the <u>0/__/02</u>/2016 Endst No. 142

Copy of the above is forwarded for information and necessary action to the: -Director Elem: & Secy: Education Khyber Pakhtunkhwa Peshawar.

District Monitoring Officer Swabi.

District Accounts Officer Swabi.

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Sub-Divisional Education Officer (M) Swabi w/r to his No. 3288, dated: 14-12-2015. Circle Officer Circle Thand Koi.

Head Teacher GPS No.1 Shah Mansoor Tehsil and District Swabi.

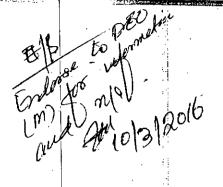
Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi (Under Register Cover).

Dist: Encation Officer (Male) Swahi

DISTRICT EDUĆATION OFFICER

(MALE) SWABI

Mo: Zarwali shouh spst Villing Tamo post / office R 1060 Willing Tamo post / office Willing Tamo post / office Willing Tamo post / office USE WARI SE VSI UMB AGE vertige two the mianter leter chart and



S.D.E.O

Swabi.

Subject: Report regarding Zarwali shah Ex-SPST.

R/Sir.

TO.

Reference to your SMS dated 16-02-2016, it is stated for your kind information that Mr., Zarwali sha

SEST was on earned leave w.e f 01-04-2014 to 30-09-2015 vide DEO no.1589-G dated 21-04-2014.

The teacher concerned took his service book along with leave sanction from the establishment branch DEC office, which he has not returned uptill now.

The undersigned hasn't received hence it is impossible to make necessary entry of his termination in the service book.

The report is submitted for your kind information and N/A please.

Distr. Education Officer (Male) Swabi

ASDEO (N

OFFICE OF ASDEO (M) CIRCLETHANDKOI (SWABI)

NO 336 DATE 08

Circle Thand Koi (Swabi)

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То

OFFICE OF THE SUB DIVISIONAL EDU OFFICER, (MALE) SWABI

/Dated: 15-/3/2016

The District Education Officer, (Male) Swabi

Subject: <u>REPORT REGARDING ZAR WALI SHAH, Ex-SPST</u> Memo:

Reference your office endst. No. 1042-48, dated: 1/2/2016 regarding the termination of the above referred Ex-SPST in the subject noted above.

In this regard it is submitted that the undersigned directed the ASDEO circle Thand Koi to make necessary entry in his service book accordingly.

But the ASDEO concerned submitted a report vide his office No.336 dated 09-03-2015 stating that he was on earned leave w.e.f 01-04-2014 to 30-09-2015 vide your No.1589-G dated 21-04-2014. He further added that the teacher under question took his service book along with leave sanction from the establishment branch of your office which he has not returned up till now.

Finally the circle officer categorically submitted that he is unable rather impossible for him to make necessary entry as per your demand and consequently the undersigned is also suffering.

Hence submitted for information and further orders as deem appropriate

Encls: - ASDEO report.

please

tion Officer (Male) Swabi

SUB DIVISIONAL EDU OFFICER,

Education Office nist أفناؤه وتردن

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Zazwali Shah

Before the K.P.K Service Tribunal, Peshawar. Appeal No. 739/2016 Province of K.P.K etc. ٧S

Rejoinder on behalf of affellant

R/Shewell.

Reply of Objections

All the Objections taken by respondents are incorrect and legally Untenable. The appellant has got legal Cause of action and Valid IOCUS Standi: Application for Condonation is attached with genuine reasons. The appellant appeared before the Coust with clean hands, having bomafide claim and appear is maintainable. The appear is in accordance with relevant law and rules, hence the objections are abortive.

ON FACTS

1. Needs no reply.

- 3. Needs no reply
- 4. The averment of affeat in Para-4 is Correct and not disfuted by respondents, hence need no reply.
- 5. Needs Judicial review wetter the absence is Willful or due to Circumstances beyond Control.
- 6. Incorrect. The averment of Para-6 of appeal is correct, while the reply is Incorrect.
- 7. Incorrect. The averment of Para. 7 of appeal is Correct, while the reply is incorrect.

ON GROUNDS

A to F

All the Grounds taken in appeal are correct and legal, while the reply offered by respondents are abortive and untenable.

It is therefore humbly requested that the relief may Kindly be granted as prayed for in the appeal.

AFFIDAVIT

I Zarwali Shah do hereby declare on oath that the Contents of this rejoinder are true and correct to the best of My Knowledge and belief.

دروج شرام

Deponent

ATTESTE Through OTA RUBLIC In Pesha

Shahzada Iofan Zia Advocate Peshawar.

Appellant